IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 1199 of 2001(D)

OP(MV) 1933/1996 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR
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APPELLANT/PETITIONER

M.SUNIL KUMAR,
S/O. KUMARAN,
MADANIPPURAM, KURUMBATHUR P.O.,
THIRUNAVAYA, MALAPPURAM

BY ADV. SRI.V.G.ARUN

RESPONDENTS:
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1. **K.KUMARAN, S/O. KELU VAIDIAR,**
   KUMBALAPARAMBIL HOUSE,
   P.O. ATHAVANAD, TIRUR.

2. **SHAJI T.K., S/O. KUMARAN, THIYYANATHIRUTHY**
   KUMBALAPARAMBIL HOUSE, ATHAVANAD P.O., TIRUR.

3. **UNITED INDIA INSURANCE CO. LTD.,**
   BRANCH OFFICE, SABKA BUILDING, THAZHEPALAM, TIRUR.

4. **M.P. HAMZA, S/O. SAIDALAVI, MELAPADIKKAL**
   HOUSE, KUTTIKKALATHANI, KALPAKANCHERRI.

5. **K. JABBAR, S/O. THITTEMA, KUNNANEDAN**
   HOUSE, KURUMBATHUR.

6. **THE ORIENTAL INSURANCE CO. LTD.,**
   BRANCH OFFICE, KUNNAMKULAM.

BY ADVS. SRI.VPK.PANICKER --- R6
SRI.P.JAYASANKAR --- R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1199 of 2001

Dated this the 7th day of December, 2007

Judgment

Koshy,J.

Appellant/Claimant sustained injuries in a motor accident on 8.8.1994. He was travelling in an autorickshaw driven by the second respondent. Another autorickshaw driven by the fifth respondent hit the same. The autorickshaw driven by the second respondent was insured by the third respondent insurance company and the autorickshaw driven by the fifth respondent was insured by the sixth respondent insurance company. He claimed a compensation of Rs.2,50,000/- as compensation. Tribunal has awarded only Rs.14,000/- as compensation. The tribunal found that the accident occurred due to the negligence of both drivers and third and sixth respondents insurance companies were directed to deposit the amount awarded. Only quantum of compensation is disputed in this appeal.

2. As a result of accident, appellant sustained the following injuries:

"1. Fracture shaft of femur;
2. Loss of two teeth;
3. Fracture of one tooth;
4. Abrasions and lacerated injuries."

Ext.A3 is the copy of the wound certificate. Ext.A4 is the index card which shows that he was admitted in the Medical College Hospital on 8.8.1994 as an inpatient and he was discharged on 11.9.1994. He was asked to follow up for review after 11.10.1994. He was put on plaster cast after treated with tibial traction. The tribunal did not grant any compensation for disability. Admittedly, there was fracture of shaft of femur. Loss of teeth was not shown in the wound certificate. Therefore, tribunal did not accept the same. He was aged only 17 years at the time of accident. Fracture of the shaft of femur will have its own repercussions throughout his life. The tribunal has awarded only Rs.1,500/- for loss of amenities in life. Since he has not produced any certificate of permanent disability, we are of the opinion that no compensation can be granted for permanent disability as such, but, for loss of amenities and enjoyment in life and for actual loss of earnings, future medical expenses and consequences of disability due to fracture, we are of the opinion that an amount of Rs.7,500/- ought to have been granted instead of Rs.1,500/- granted by the tribunal. Therefore,

claimant will be entitled to an additional amount of Rs.6,000/-. Third and sixth respondents are directed to deposit Rs.3,000/- each with 7.5% interest from the date of application till its deposit over and above the compensation awarded by the tribunal. The award is modified accordingly. Appeal is allowed to the above extent only.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1199 of 2001

Judgment

Dated:7th December, 2007